

# MONTANA SEVENTEENTH JUDICIAL DISTRICT COURT RULES

## BLAINE, PHILLIPS AND VALLEY COUNTIES

(For Rules 1-14, see Montana Uniform District Court Rules)

### RULE 15 - OBTAINING COURT ORDER

(a) **Motion and Briefing Requirement.** Under Rule 7, M.R.Civ.P., any request for court order shall be by motion stating with particularity the grounds therefor and the relief or order sought. All motions filed shall be briefed and deemed submitted pursuant to Rule 2, UDCR.

(b) **Document Title.** For meaningful information in Court indexing, motions and Briefs shall include in the document title identity of submitting party and a brief description of subject. (Eg., Defendant's Motion for Change of Venue).

(c) **Proposed Order.** Parties applying for an order shall present prior to hearing or action upon the same a separate proposed order for signature of the Court. Where applicable, the title to the proposed order shall make reference to the underlying motion. Two copies of any order to show cause, temporary restraining order or like order shall be presented and, if found acceptable, signed with one retained for the court files and the duplicate original returned for purpose of making service.

(d) **Oral Arguments.** Oral argument will be set on summary judgment motions unless waived by all parties. In civil cases, parties desiring oral argument on other motions must support the request with specific reasons. Oral argument is scheduled exclusively by the Judge or through the Court's Administrative Assistant.

### RULE 16 - TELEFAX FILING

(a) **Authorization.** Any document which may be filed by mail can be submitted by telefax transmission using the following procedure.

(b) **Filing Procedure:**

1. The telefaxed document will not be accepted unless it is completely legible, shows all necessary signatures and does not result in reversal of telephone or telefax charges to be incurred by the Court.

2. The date and time of Clerk of Court's receipt of the telefax transmitted document shall be the date and time of filing.

3. Should the original of the telefaxed document not be served on the same day as transmittal, service of the telefax document must be made as provided in Rule 5, M.R.Civ.P.

4. The party telefaxing the document shall, on the date of the telefax transmission, mail the original of the document to the Clerk of Court by first class mail. Upon receipt and confirmation that the original is exactly the same as the telefax transmission, the Clerk shall file and attach the original to the telefax transmitted document.

5. The Certificate of Service must show that a telefax transmission was sent to the Clerk of Court and the date of such transmission.

6. Failure of the clerk to receive the signed original document in a timely fashion will be cause for an order to strike the telefaxed document and thereupon, it shall have no force or effect whatsoever. The party filing the telefaxed document shall be responsible to assure the original is timely received and filed by the Clerk.

7. Filing documents by telefax shall not change or delay payment of fees in the manner and within the time required by the Clerk of Court.

### RULE 17 - COMMUNICATIONS WITH THE COURT

(a) **Ex Parte Communications.** There will be no ex parte discussion with the Court of substantive issues involving pending or anticipated cases without the presence of or notice to all opposing parties, or without prior approval or stipulation of opposing parties. A violation of this rule may result in imposition of sanctions against the offending party or attorney.

(b) **Correspondence.** The Court will not receive letters or other communication from parties or counsel which do not indicate on their face that copies have been sent to all opposing parties or counsel. Motions, not correspondence, are required under Rule 15, UDCR should parties seek court action.

(c) **Reminders to the Court.** In matters pending or taken under advisement including, but not limited to, a motion or decision in a bench trial, parties may, and are encouraged, following any period as allowed for briefing or additional filing, to send the Court a reminder letter containing only a brief description of the matter needing attention and the date it was made or taken under advisement.

### RULE 18 - LAW AND MOTION

(a) **Day and Time.** To conduct routine matters, reasonable effort will be made to schedule two law and motion dates monthly in each county as follows:

1. At Glasgow, Valley County: On the 1st and 3rd Monday of each month to commence at 9:00 o'clock A.M.

2. At Malta, Phillips County: On 2nd Monday and on Tuesday after 4th Monday of each month at 9:00 A.M. To accommodate handicapped access, any matter needing such access will be held in the Justice Court on first floor, Phillips County courthouse.

3. At Chinook, Blaine County: On Tuesday after 2nd Monday and on 4th Monday of each month at 10:00 A.M.

4. Should scheduled law and motion fall on an official holiday, it shall then be continued to the next business day. Should Monday be the holiday, the law and motion scheduled for the following Tuesday shall continue to Wednesday of that same week.

5. Scheduled law and motion may continue on any designated date at the discretion of the Court. Additional law and motion dates may be held in any county when, in the discretion of the Court, the business of the district so requires.

(b) **Routine Matters.** "Routine matters" for purpose of law and motion shall include initial appearance, arraignment, judgment by consent or default, probate proceedings, uncontested ex parte matters, matters pertaining to questions of law only and any other matter reasonably anticipated to take less than 30 minutes to complete. Matters set for law and motion date which become contested are subject to postponement and rescheduling.

(c) **Calendar.** Counsel or parties shall notify the Clerk of Court by noon on the preceding business day of matters to be placed on the law and motion calendar. Matters are placed on the calendar in the following order: Adoption; Probate; Default or Consent Dissolution; Youth Court; Criminal; Other youth matters; Other civil matters. Emergency matters may be presented to the court at any time upon adequate showing by moving party. Parties or counsel not prepared as their matter is called from the calendar will be moved to end of the calendar and be heard subject to available time.

(d) **Continuances.** Matters scheduled for law and motion may be continued by the Court on its own initiative. Ex Parte requests to continue any matter set by Court order for law and motion must comply with Rule 3, UDCR. Counsel may withdraw from the law and motion calendar any matter placed thereon solely by reason of their prior notification to the Clerk of Court.

(e) **Contested Matters.** Unless scheduled by the Judge, contested matters, matters involving questions of fact, or matters requiring more than 30 minutes for presentation shall be scheduled through the Court's Administrative Assistant at (406) 654-1062.

### RULE 19 - SCHEDULING AND PRE-TRIAL

(a) **Scheduling Procedure.** Rule 16(b), M.R.Civ.P. requires a scheduling order to be issued no more than 120 days after filing of complaint. Within twenty (20) days of filing of all responsive pleadings or ninety (90) days after the filing of a complaint, *whichever comes first*, Plaintiff(s) will present to the Court a proposed Order setting scheduling conference.

At least ten (10) days prior to the scheduling conference, attorneys for the parties and any unrepresented parties shall have a phone conference with the Court's Administrative Assistant at (406)

654-1062 to discuss a proposed scheduling order. Should this phone conference result in an agreed scheduling order, parties shall complete and present a written scheduling order in approved format for Court approval. Court approval of the submitted scheduling order shall vacate the scheduling conference.

Should attorneys for the parties and all unrepresented parties stipulate to a waiver of discovery, an immediate trial scheduling conference may be held with the Court's Administrative Assistant. Parties should be prepared at the scheduling conference with their calendars so a firm trial date can be set.

Following the scheduling conference, a scheduling order with discovery deadlines and trial date will be issued by the Court.

Under Rule 16(b), M.R.Civ.P., the following matters are exempt from this scheduling procedure:

1. Youth Court cases
2. Criminal actions
3. Probates
4. Adoptions
5. Mental Commitment
6. Small Claims appeals
7. Abstract or Transcript of Judgment
8. Administrative appeals
9. Seizures and Forfeitures
10. Habeas Corpus and Post Conviction Relief
11. Name Changes
12. Abused or Neglected proceedings
13. Emancipation

(b) **Trial Settings.** Trials shall be held throughout the year as scheduled. Trials may be stacked, i.e., more than one trial may be set for the same time, and if so, the Court shall determine the order of priority. Regardless of order, counsel and parties should be prepared to commence trial at the time scheduled. If preempted by another trial, the Court will reset trial and, whenever possible, to commence within the next thirty (30) days.

Because of difficulty in obtaining jurors, jury trials will not be set in July, August and the last half of December except as found necessary. Reasonable effort will be made for initial trial settings to commence as follows:

In Valley County: During week commencing with first monthly law and motion in Rule 18(a)(i), LDCR.

In Phillips County: During week commencing with second monthly law and motion in Rule 18(a)(ii), LDCR.

In Blaine County: During week commencing with first monthly law and motion in Rule 18(a)(iii), LDCR.

(c) **Six-Person Juries.** Pursuant to § 3-15-106, MCA, in all civil actions where the relief sought in the complaint is under the sum of Ten Thousand Dollars (\$10,000.00), the trial jury shall consist of six persons. The Court encourages parties to stipulate to six-person juries in other civil cases where appropriate.

(d) **Extension of Discovery Deadlines.** Discovery deadlines are to be followed. Extension of deadline to complete discovery must be by Court order upon written request setting forth the discovery accomplished to date, the reasons for missed discovery deadlines, and a statement regarding opposing counsel's position on the request. The request must be accompanied by a proposed order identified as "Amended Discovery Order" containing proposed new deadlines.

(e) **Monitoring.** The Court's Administrative Assistant will monitor deadlines established by scheduling order(s). Failure to diligently respond to monitoring inquiry may result in sanctions, including removal from the trial calendar or loss of trial priority status.

(f) **Final Pretrial Conference.** A date and time for the Final Pretrial Conference (FPC) under Rule 5, UDCR will be set at the scheduling conference. Each party represented by counsel will have an attorney present at the FPC with authority to make stipulations and admissions. Counsel should inform the Court at the FPC of health conditions or other special needs of counsel, a party or witness that will likely need attention during trial.

(g) **Sanctions.** Sanctions for violating the Court's scheduling order or pretrial conference agenda may be imposed under Rule 16(f), M.R.Civ.P.

(h) **Postponement of Trials.** Requests to continue trial must be by written motion setting forth specific reasons and a statement whether other parties oppose continuance.

Continuances are addressed to the discretion of the judge. Any motion to postpone trial on grounds of absence of witness or evidence shall be supported by affidavit under § 25-4-501, MCA showing that reasonable grounds exist to believe the absent witness or evidence cannot otherwise be obtained and that the same will be available should postponement be granted.

## **RULE 20 - SECURITY**

(a) **Weapons.** Only on-duty law enforcement officers or court security personnel shall be entitled to bring or carry firearms or other weapons in the courtroom, chambers or offices of other court personnel.

(b) **Search.** Anyone wishing to enter the courtroom may be subject to metal detector security check or required to submit to a search of his or her person or belongings by law enforcement or other court security personnel.

## **RULE 21 - ALTERNATE DISPUTE RESOLUTION**

(a) **Mediation.** Parties, at their cost, may voluntarily retain a private individual for mediation of their case. In such case, mediation shall be a confidential meeting between the parties and the mediator to seek and promote communication between the parties with a view toward reaching a settlement agreement. Parties may agree to attend mediation without counsel. Any agreement reached in mediation shall be promptly reduced to writing and upon execution by parties, a written status report shall be filed with the Court.

(b) **Settlement Conference.** In all civil cases, the court may require at any time a settlement conference before an appointed settlement judge or master. Any party may move the Court to order a settlement conference with an appointed settlement judge or master. At the discretion of the Court, trial may be postponed or not set until after a settlement conference.

1. **Settlement Judge or Master.** The settlement judge will be either a current or retired state District Court Judge. The settlement master may be any person qualified under Rule 53, M.R.Civ.P.

2. **Settlement Conference Defined.** A settlement conference is a confidential meeting between the parties, attorneys and the settlement judge/master with a view toward negotiating a settlement. Each party will submit to the settlement judge/master a confidential settlement statement containing a summary of their case and description of strengths and weaknesses on each side. The parties and their attorneys must be present unless excused by the settlement judge/master.

3. **Sanctions.** Failure of a party or counsel to participate in a Court-ordered settlement conference may result in sanctions such as imposition of costs and attorney's fees incurred by opposing party in preparation for settlement conference.

4. **Confidential.** No person present at a settlement conference shall be subject to examination concerning statements made by any other person at the settlement conference. Parties cannot subpoena or otherwise require the appointed settlement judge/master to testify regarding his opinions or other matters expressed at the settlement conference.

5. **Attendance of Insurance Claims Persons.** In all cases where pertinent, claims representative(s) from insurance companies, with requisite settlement authority, shall be required to attend the settlement conference in person or by speaker phone. Upon good cause shown, the Court may require personal appearance.

6. **Fees.** Fees charged by a settlement judge/ master may be imposed upon parties in discretion of the Court.

(c) **Settlement Documents.** If a case is settled by settlement conference or other method before the trial date without documentation, parties shall forthwith inform the Court in person or by conference call and a minute entry will be made vacating trial as the case has been settled. Once of record, the agreement is binding and enforceable. Within thirty (30) days, settlement documents must be prepared and filed.

(d) **Sealing Confidential Information.** The court reserves the right to deny a request to seal sensitive information as part of a settlement, if disclosure of the information is in the public interest.

## RULE 22 - TRIAL PRACTICE

(a) **Exhibits.** Counsel shall make reasonable effort to pre-label all exhibits to be used at a trial. In marking trial exhibits, plaintiff shall use letters and defendants shall use numbers. Multiple defendants should use a different initial before numbering of each exhibit. (Eg., Defendant Robin would use R-1, R-2, etc.). Copies of all standard-size exhibits shall be made in advance for the judge and opposing counsel. No exhibits shall be used in opening statement without prior Court approval. Exhibits will be disposed under Rule 12 U.D.C.R. upon final disposition of the case.

(b) **Timing of Objections.** Objections must be made after the question has been asked and before the witness has answered. It is objecting counsel's responsibility to stop the witness so the objection can be made. All counsel shall prepare their witnesses to refrain from answering when an objection is made.

(c) **Manner of Objections.** Unless apparent, counsel must state succinctly the specific grounds for objection. All objections will be addressed to the Court. Argument may be made only upon request or approval of the Court.

(d) **Voir Dire.** Voir dire examination shall not exceed one (1) hour per side without prior leave of Court. Only one attorney for each party may conduct voir dire. In the exercise of discretion, the Court may preclude counsel on voir dire from:

1. Asking questions of an individual juror that can be asked collectively;

2. Asking questions covered by and answered in the juror questionnaire;

3. Repeating questions asked and answered;

4. Using voir dire to instruct jury on the law;

5. Using voir dire to argue the case; or

6. Asking a juror what his or her verdict might be under any hypothetical situation based upon expected evidence or otherwise.

(e) **Examination.** Only one attorney for each party shall examine or cross-examine the same witness. On cross-examination of any witness or direct examination of a hostile witness, counsel shall not approach the witness without first obtaining permission of the court. Counsel shall not obstruct jury view of the witness.

(f) **Discharge of Witness.** A party having a witness subpoenaed in a civil case may discharge the witness by motion made in open court. If an opposing party desires the witness to remain, such party must procure the witness's further attendance by subpoena or order of the Court and shall thereafter be responsible to the witness for fees.

(g) **Character or Parenting Witnesses.** No more than three (3) witnesses for each party will be permitted to testify as to the character of a person or parenting practices and abilities without an order of Court authorizing additional witnesses.

(h) **Final Arguments.** Each party is limited to one (1) hour for final argument, without prior leave of the Court. Plaintiff must allocate more time to the opening portion of Plaintiff's final argument.

(i) **Jury Instructions.** To provide impartial copies for submission to the jury, parties must be prepared to offer an unbound copy of approved jury instructions absent of citation of authority, offered party and consecutive numbering required under Rules 7(b) & (c), UDCR. Parties should inquire of the Court at the final pretrial conference of any stock instructions which need not be duplicated.

## RULE 23 - DECORUM

(a) **Opening Announcement.** When the Clerk first convenes in the morning and after any recess, the Court Clerk or Bailiff shall announce the opening of Court, and all persons in attendance in the courtroom shall rise until the Court has taken the bench.

(b) **Court Reporter.** Unless the presence is waived by parties and the Court, a court reporter will be on duty in the courtroom at all times the Court is in session.

(c) **Dress.** All counsel appearing before the Court shall be dressed in appropriate business attire.

(d) **Conduct.** During any contested hearing, the Court may refuse to entertain any argument, motion or other comment to the Court, other than formal objection, unless the counsel or party making the same first arises in his place to address the Court.

(e) **Photography and Media.** Broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court, or recesses between sessions, shall be allowed only with prior notice to, and specific permission of, the presiding judge. All equipment used and persons using it shall remain behind the bar. No flash lights, or other lighting equipment, or large microphones shall be used. Photographers, television cameras, and other recording devices, when allowed, shall remain stationary, and shall be used so as to not disrupt the proceedings. No photographs of or televising of the members of a jury shall be permitted.

(f) **Removal.** Parties or other persons in the courtroom while the Court is in session shall be subject to removal for behavior or actions considered disruptive or threatening.

## RULE 24 - MARITAL DISSOLUTION CASES

(a) **Child Support Guidelines.** As long as application of uniform child support guidelines is required under § 40-4-204, M.C.A., a guidelines worksheet and financial affidavit(s), in accepted form, must be completed. In noncontested cases, these documents must be filed as required by § 46.30.1515 A.R.M. In contested cases, these documents must be offered into evidence as exhibits.

(b) **Support Variance.** A party seeking variance from the support guidelines or withholding requirements must furnish written proposed findings addressing their contention the variance is supported by clear and convincing evidence.

(c) **Notice to Child Support Enforcement Division.** Any petition filed to commence proceedings involving modification of child support shall include a statement whether requesting party has knowledge of the child(ren) receiving or applying for public assistance and if so, petitioner shall immediately notify Montana's Child Support Enforcement Division in writing of the pending action and file proof of such notice with the Clerk of Court.

(d) **Custody and Visitation.** On February 29, 1996, the 17th Judicial District Bar Association adopted Child Visitation Guidelines. Copies of these guidelines will be available for copy cost through the Clerk of Court. At or before the time for hearing in cases where custody and/or visitation is contested, the moving parent(s) shall acknowledge they have read and considered these guidelines.

## RULE 25 - CRIMINAL ACTIONS

(a) **Financial Disclosure by Indigent.** Defendants desiring court-appointed counsel due to indigency shall file a sworn Financial Disclosure Application substantially in form available through the Clerk of Court. Whenever possible, copies of this application shall be made available to defendants prior to initial appearance. Under § 46-8-111, MCA, the applicant shall ratify the application, under oath, at the initial appearance or any other appearance when required by the Court. This application shall inform those claiming indigency that reimbursement for all or portions of cost incurred by the County in providing appointed counsel may be required and shall contain applicant's agreement to diligently inform the Court of any substantial change in the reported financial condition. Copies of filed Financial Disclosure Application shall be provided by the Clerk to appointed counsel.

(b) **Public Defenders/Court Appointed Counsel.**

1. **Appointment.** Upon determination of entitlement under § 46-8-101, MCA, counsel will be appointed to represent a defendant in the following priority: the public defender contracted for by the county; attorneys informing the Clerk of a willingness to accept appointment; other Montana attorneys.

2. **Compensation.** Other than the public defender who is compensated by contract, court-appointed attorneys in criminal actions shall be compensated at a rate not to exceed Sixty Dollars (\$60.00) per hour. Expenses reasonably incurred in representation shall also be reimbursed; provided expenses shall not exceed state accepted rates and expenses shall

not exceed Three Hundred Dollars (\$300.00) in aggregate without Court approval.

3. **Presentence Report (PSI).** In order to determine a defendant's ability to reimburse costs of his or her defense counsel, the public defender/court appointed counsel shall upon request of the probation officer provide an estimate of time incurred in providing legal services to be included in a defendant's presentence report.

(c) **Bail.**

1. **Initial Bail Request.** At the time of seeking leave to file an Information, the County Attorney shall submit a proposed order together with written recommendations for bail pending initial appearance.

2. **Bail From Lower Courts.** Whenever bail has been furnished to a Justice or City court and the cause is transferred to District Court, the County Attorney shall assure bail is delivered by the Justice or City court to the Clerk of Court by the initial appearance. If cash bail is furnished, the transfer to District Court shall identify the person or party who actually posted the cash bail.

(d) **Arraignment.**

1. **Acknowledgement of Rights.** Prior to arraignment, defense counsel shall have reviewed and sought signature of defendant upon an Acknowledgment of Rights form to be presented to the Court at time of arraignment. This form is available from the Clerk of Court.

2. **Court entered "Not Guilty" Plea.** A defendant unwilling to enter a plea at the time of arraignment is subject to the Court entering a "not guilty" plea. In such event, defendant, on request, will be allowed to reserve for a reasonable time the right to move against the charging document(s) and to file motions and assert all defenses to which he/she may be entitled.

(e) **Omnibus Hearing.**

1. **Setting.** Following plea of "not guilty," the court will set the Omnibus Hearing described in § 46-13-110, MCA usually within 45 to 60 days. An Omnibus Hearing can be conducted by telephone conference call upon approval of the Court.

2. **Discovery.** Unless motion is previously filed seeking protection, the prosecution shall make disclosure under § 46-15-322(1)-(4), MCA within twenty (20) days of Defendant's request. Defendant's failure to make request before the Omnibus Hearing can be grounds for attributing trial delay to Defendant. Defendant shall comply with disclosure deadlines under § 46-15-323, MCA or seek extension as allowed thereunder.

3. **Conduct of Hearing and Memorandum.** The Court has approved a memorandum form to be used in conducting an Omnibus Hearing. The Omnibus Hearing will be conducted on the basis Counsel has already read and is familiar with the contents of this memorandum form. The Omnibus Hearing Memorandum and Order form is available on request through the Clerk of Court. This form document as completed during the Omnibus Hearing will be the memorandum filed under § 46-13-110(4), MCA.

4. **Motions.** Counsel must be prepared to discuss those matters, requests or motions described on the court approved Omnibus Hearing Memorandum form at the Omnibus Hearing.

5. **Waiver.** Upon submission of a completed and signed Omnibus Hearing Memorandum form, counsel may by stipulation waive the right to hold an Omnibus Hearing before the Court. At its discretion, the Court may accept the waiver and vacate the Omnibus Hearing whereby the Omnibus Hearing Memorandum completed by counsel will be signed by the Court and filed with the Clerk.

6. **Mental Competency Issues.** Upon motions under § 46-14-202, MCA requesting examination, defendant's counsel shall be prepared to identify the name and business address of a qualified professional sought to conduct the examination and to discuss the availability of this professional to do the examination. Should examination be ordered upon defendant's motion, defense counsel shall be responsible to assure a report of examination under § 46-14-206, MCA is timely filed.

(f) **Plea Agreement.**

1. **Plea Discussions.** No defendant is required to discuss a plea agreement. The Court may summarily reject all plea agreements not presented at least two (2) weeks prior to the scheduled trial.

2. **Written Plea Agreements.** Plea agreements under § 46-12-211, MCA must be reduced to writing, signed by counsel and the defendant, and entered into evidence.

3. **Alford Pleas.** Counsel who intend to proffer an Alford plea under § 46-12-212(2), MCA, must present a factual basis showing good reason for the Court to accept the plea.

4. **Effect on Trial Setting.** At its discretion, the Court may refuse to vacate a trial setting by reason of a plea agreement until after defendant has appeared and entered a plea found acceptable to the Court.

(g) **Presentence Investigation.** In preparing a presentence investigation Report (PSI), the probation officer shall make reasonable effort to contact any victim(s) and inform them of a right to be present and give testimony at the sentencing hearing and seek a written statement to be attached to the PSI. Unless effectively waived by a defendant, a PSI shall be completed and filed with the Court no later than ten (10) days prior to sentencing. Prior to sentencing, defense counsel shall review the filed PSI with defendant.

(h) **Presence of Sheriff's Department.** Unless excused by the Court, an officer of the sheriff's department shall be present during sentencing. The prosecution shall inform the sheriff's department of the dates and times of all sentence hearings.

## **RULE 26 - YOUTH IN NEED OF CARE**

(a) **Temporary Investigative Authority (TIA).** An order of temporary investigative authority and protective services issued under § 41-3-403, MCA shall not extend beyond 180 days, unless request for extension is granted. The action is subject to dismissal unless the person or party filing the petition brings the matter for adjudicatory hearing under § 41-3-404, MCA within the time period, as extended, for TIA and protective services.

(b) **Treatment Plan Warning.** Any treatment plan as described in § 4-3-603(3), MCA must contain the following warning:

"Under Montana law, parental rights may be terminated if the treatment plan is unsuccessful or the parents do not comply with it, and their condition or conduct renders them unfit and unlikely to change within a reasonable amount of time.

Parental rights may also be terminated if the child has been in a foster home for one year and the parents do not complete the treatment plan because of substantial neglect or willful refusal.

Parental rights can also be terminated if the child has been in a foster home for two years, the parents do not complete the treatment plan and there is substantial likelihood the parents will not be capable of resuming proper parenting."

## **RULE 27 - CONFIDENTIAL CRIMINAL JUSTICE INFORMATION**

A copy of any petition for the release of confidential criminal justice information under §§ 44-5-111 and 44-5-303, M.C.A., shall be served by petitioning party upon each agency maintaining such information. The petition shall inform the requested agency that within twenty (20) days of service, they shall deliver to the Court for in camera inspection true and correct copies of the requested information or, in lieu thereof, file any response it may have to the petition. A hearing may be held at the Court's discretion. Following in camera inspection, should dissemination of confidential criminal justice information be allowed, the information shall be returned to the requested agency for dissemination on conditions contained in the order of dissemination. Dissemination shall be subject to copying costs paid in advance to the requested agency.

## **RULE 28 - BANKRUPTCY**

Should a party file for protection in Bankruptcy Court, that party shall immediately notify the court in writing of the filing and provide a copy of the bankruptcy cover sheet. Upon discharge or confirmation of a bankruptcy reorganization plan superseding any claim made in this Court, notice thereof shall be filed and upon such filing, a party may request and obtain dismissal of the claim.

## **RULE 29 - APPEALS FROM JUSTICE OR CITY COURT**

(a) **Scheduling.** When an appeal from Justice or City court, being civil or criminal, has been filed and the record received by the Clerk of Court, the Clerk shall send out by regular

minute entry setting the matter for a scheduling appearance at next scheduled law and motion date not less than ten (10) days from the date of the minute entry. This provision does not apply to appeals on the record from Small Claims Court.

(b) **Failure to Appear.** In any appeal from a justice or city court, if one of the parties does not appear for scheduling, the court may dispose of the matter as the ends of justice dictate, including issuance of order dismissing the appeal.

### **RULE 30 - REMOVAL TO SMALL CLAIMS COURT**

All actions for recovery of money or specific personal property where the amount in controversy does not exceed Three Thousand Dollars (\$3,000.00) shall be subject to removal to Small Claims court pursuant to § 3-10-1004, MCA.

### **RULE 31 - CLOSURE OF ESTATES**

The Clerk of Court shall notify the Judge of all estate matters that remain pending two (2) years after appointment of the personal representative. The Court may thereupon order the personal representative and attorney to appear and show cause under § 72-3-1015, MCA, why the estate has not been closed.

### **RULE 32 - DEBTOR EXAMINATIONS**

Unless a debtor examination request includes specific request for other designation, the Clerk of Court is designated as referee for any examination of judgment debtors under § 25-14-101, MCA.

### **RULE 33 - CONSERVATORSHIPS**

(a) **Insurance Settlement.** In the event of a settlement for a minor or disabled person, the insurance company, through counsel, may not represent the plaintiff for conservatorship purposes.

(b) **Annual Accounting.** Unless waived by Court Order or these local rules, all orders should contain provisions requiring conservators to provide an annual accounting. The accounting may be made informally by letter, together with a list showing the location of all accounts, proof of beginning balance, itemization of income and expenses, and proof of ending balance.

(c) **Borrowing by Conservator.** All orders must provide that the conservator shall not borrow monies from the estate without prior Court approval.

(d) **Bond or Certificate of Deposit.** A bond must be posted in all conservatorship actions unless good cause is shown for not requiring the same. Good cause for not requiring a bond exists if the total estate of the conservatorship is invested in a certificate of deposit in a local bank and fully insured by FDIC. In such event, the certificate of deposit must be in the name of the Clerk of Court as trustee for the minor or incapacitated person, interest must automatically accrue and be reinvested, the certificate cannot be cashed without prior court order, the bank must expressly consent to these limitations, and the certificate of deposit must be delivered to the Clerk of Court for safekeeping, to be delivered upon the conservatorship estate being terminated.

(e) **Waiver of annual accounting.** In the event of Certificate of Deposit as contained in the immediately preceding local rule, there is no annual accounting required.

### **RULE 34 - LAW LIBRARY**

A law library is maintained in each of the three counties of the 17th Judicial District. The library will be open to the general public during the business day upon request made of the Clerk of Court. Only attorneys maintaining an office practice within the county where the library is located can remove books or materials from the library upon first informing the local Clerk of Court. All books or materials removed shall be promptly returned upon request of the Court or Clerk.

Use of the library during other than regular business hours shall be only by permission of the Judge, and access shall be at the discretion of the local Sheriff's department.

Abuse to the law library or violation of these rules of law library use can subject the user to a permanent ban from use of the law library.

### **RULE 35 - AMENDMENT--RELIEF**

(a) **Amendment.** Amendments to these rules may be made from time to time by Court Order filed with the Clerks of Court for each county within the 17th Judicial District.

(b) **Relief.** If counsel believe in good faith they have a situation which is not covered adequately by these rules, or need relief from the application of these local rules, counsel may, upon application, present such matters to the court for its consideration.

*Adopted May 29, 1997; effective July 1, 1997.*